

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

STEVEN MCCAIN,

Petitioner,

versus

CIVIL ACTION NO. 9:23-CV-9

TEX. COURT OF CRIMINAL APPEALS,

Respondent.

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Petitioner Steven McCain, an inmate confined at the Wainwright Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this petition for writ of mandamus. The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the petition be dismissed.

The court has received the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the Report and Recommendation. The court must therefore conduct a *de novo* review of the objections in light of the pleadings and the applicable law.

Petitioner asks this court to issue a writ of mandamus directing the Texas Court of Criminal Appeals to address the grievances set forth in his state application for writ of habeas corpus. The magistrate judge correctly stated that federal courts lack the general power to issue writs of mandamus to direct state courts in the performance of their duties. *Max-George v. The Honorable Justices of the Court of Criminal Appeals of Texas*, 788 F. App'x 274, 275 (5th Cir. 2019). Petitioner's objections are therefore without merit.

ORDER

Accordingly, petitioner's objections (#4) are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge (#2) is **ADOPTED**. A final judgment shall be entered dismissing the petition.

SIGNED at Beaumont, Texas, this 1st day of May, 2023.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE